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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,694	04/04/2001	Behnam Azvine	36-1449	5931

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Nixon & Vanderhye
1100 North Glebe Road 8th Floor
Arlington, VA 22201-4714

EXAMINER

ALI, SYED J

ART UNIT	PAPER NUMBER
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2127

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/806,694	Applicant(s) AZVINE ET AL	
	Examiner Syed J Ali	Art Unit 2127	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12 and 16-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12 and 16-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to the amendment filed November 12, 2004. Claims 1-10, 12, and 16-19 are presented for examination.
2. The text of those sections of Title 35, U.S. code not included in this office action can be found in a prior office action.

Specification

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 112

4. **Claims 1-10, 12, 16, and 18-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**
5. As per claims 1-10, 12, and 16, the claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

In claims 1-10, an article should modify "Apparatus", e.g. "An apparatus". There are numerous other idiomatic errors, such as "the or each input" "the or each task", and "otherwise

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interruptions to the human user” in claims 3-5, respectively. In claims 8 and 10, an article should modify “human user” to bring the claims in conformance with U.S. practice. Additionally, line 2 of claim 1 recites “upona human user” which should read “upon a human user”. Claims 1-10, 12, and 16 are replete with such errors.

6. As per claims 16 and 19, the claims are phrased in such a way as to present what should be independent claims as dependent claims. Any claim which is in dependent form but which is so worded that it, in fact, is not a proper dependent claim, as for example it does not include every limitation of the claim on which it depends, will be required to be canceled as not being a proper dependent claim; and cancellation of any claim depending on such a dependent claim will be similarly required. The applicant may thereupon amend the claims to place them in proper dependent form, or may redraft them as independent claims, upon payment of any necessary additional fee. MPEP §607.

7. The following terms lack antecedent basis:

- a. In line 1 of claim 5, “the entity”.
- b. In line 2 of claim 18, “the new task”.

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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9. **Claims 1-10 and 12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

10. As per claim 1, the claimed apparatus is non-statutory as it is not tangibly embodied, in that it fails to include any hardware as part of the apparatus. The apparatus could be implemented entirely in software. Regarding claims 2-10 and 12, they are rejected for at least the same reasons as presented for their parent claim, as they fail to present any limitations that resolve the deficiencies of the claim from which they depend.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. **Claims 1-4, 6-7, 9, and 16-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Retallick (USPN 6,006,215).**

13. As per claim 1, Retallick teaches the invention as claimed, including an apparatus for controlling the communication loads placed upon a human user by a computer system, the computer system comprising a plurality of information management systems, each of the

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information management systems being operable to assist and communicate with the human user, the apparatus comprising:

- (i) receiving means for receiving one or more inputs representative of one or more tasks to be performed by the information management system (col. 2 lines 23-28; col. 2 lines 53-57) and for receiving information associated with the performance of the one or more tasks from the information management system (col. 17 lines 30-32);
- (ii) generating means for generating an executable task for communicating the received information to the human user (col. 4 lines 53-59; col. 9 lines 27-36);
- (iii) scheduling means for:
 - a) receiving a user workload input representative of user workload identifying the user's current and future activities (col. 6 line 61 - col. 7 line 22); and
 - b) scheduling an execution time for said executable task so as to avoid the user's current and future activities identified by the user workload input (col. 7 lines 23-28).

14. As per claim 2, Retallick teaches the invention as claimed, including the apparatus according to claim 1, wherein when the input comprises a change to a previously received input, the scheduling means operable to change the execution time associated with the previously received input, thereby rescheduling communication of the information associated with the previously received input (col. 15 lines 49-62).

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15. As per claim 3, Retallick teaches the invention as claimed, including the apparatus according to claim 1, wherein the apparatus further includes a world model, the world model comprising one or more parameters associated with each input, and is accessible to the scheduling means (col. 3 lines 47-62).

16. As per claim 4, Retallick teaches the invention as claimed, including the apparatus according to claim 3, wherein the parameters include at least one of a start time of each task, a deadline time of each task, a duration of each task and/or interruption status of the human user (col. 3 lines 47-62).

17. As per claim 6, Retallick teaches the invention as claimed, including the apparatus according to claim 1, including means for storing human user preference information, which user preference information includes preferred actions of the human user relating to task information (col. 6 line 61 - col. 7 line 28).

18. As per claim 7, Retallick teaches the invention as claimed, including the apparatus according to claim 3, wherein the world model is maintained by a diary, the diary being responsive to inputs from the execution means and schedules execution of the said task to occur in a free timeslot of the diary (col. 4 lines 1-12).

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19. As per claim 9, Retallick teaches the invention as claimed, including the apparatus according to claim 1, wherein the information management systems include at least one of a diary assistant, an email assistant, a telephone assistant, and a web assistant (col. 3 lines 47-62).

20. As per claim 16, Retallick teaches the invention as claimed, including a computer program, or a suite of computer programs, comprising a set of instructions, or a suite of a set of instructions, to cause a computer to perform the method according to claim 17 (col. 1 lines 7-10).

21. As per claim 17, Retallick teaches the invention as claimed, including a method performing the steps carried out by the apparatus of claim 1 (col. 1 lines 31-33).

22. As per claim 18, Retallick teaches the invention as claimed, including a method according to claim 17 further including the step of enabling the information management systems to perform the new task at the scheduled execution time (col. 3 lines 54-57).

23. As per claim 19, Retallick teaches the invention as claimed, including a digital data carrier containing computer accessible code for loading into a computer for the performance of claim 17 (col. 1 lines 10-15).

Claim Rejections - 35 USC § 103

24. **Claims 5, 8, 10, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Retallick.**

25. As per claim 5, Retallick does not specifically teach the invention as claimed, including the apparatus according to claim 4, wherein the entity can explicitly specify the interruption status for allowing or otherwise interrupting the human user. However, Retallick does disclose a user having the ability to indicate a level of availability, such that a task may be delegated to a more appropriate recipient (col. 6 line 61 - col. 7 line 28). Retallick also discloses alleviating a workload when a user has a workload that is difficult to manage (col. 7 lines 23-28). It would have been an obvious modification to the Task Delegation module of Retallick to allow a user to indicate whether or not interruption should be allowed, as a user with a high workload or an unavailable user would not want to be interrupted in the midst of a burdensome activity load.

26. As per claim 8, Retallick teaches the invention as claimed, including the apparatus according to claim 1 for assisting in the management of information flow for human user (col. 6 line 61 - col. 7 line 28).

Retallick does not specifically indicate that the apparatus includes means operable to concurrently execute a plurality of processes. However, Retallick is disclosed within a modern computing environment that seeks to improve productivity and efficiency by arranging the activity planning of a business environment (col. 1 lines 34-47). It is only logical that the computing means that are implicit in Retallick (col. 1 lines 7-15) would be of the type that are multi-threaded or are able to support multi-processing.

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27. As per claim 10, Retallick teaches the invention as claimed, including the apparatus according to claim 1, further comprising means responsive to an input signal indicative of workflow of a human user, wherein the scheduling means is further arranged to schedule an execution time for a task in dependence on the received input (col. 6 line 61 - col. 7 line 28).

28. While Retallick does not specifically address the state of mind of a human user, there is a provision to allow a user to alter a workload based on a current and future activity load. While Retallick discusses the workload in general terms, the state of mind of a user goes to their abilities to handle allocated tasks and activities. Taking into account the state of mind of a user is an obvious modification of Retallick's Task Delegation module.

29. As per claim 12, Retallick does not specifically teach the invention as claimed, including the apparatus according to claim 1, wherein the receiving means (i) is further operable to receive the input indicative of an interruption status for the user. These limitations are substantially similar to those presented in claim 5. Thus, the discussion in paragraph 25 relating to allowing a user to specify an interruption status is relevant to the present claim as well.

Response to Arguments

30. **Applicant's arguments with respect to claims 1-10, 12, and 16-19 have been considered but are moot in view of the new grounds of rejection.**

Conclusion

31. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Syed J Ali whose telephone number is (571) 272-3769. The examiner can normally be reached on Mon-Fri 8-5:30, 2nd Friday off.

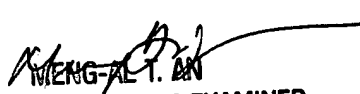
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai T An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Syed Ali
March 1, 2005



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